

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Richmond Division

UNITED STATES OF AMERICA                   }  
  }  
v.   } Criminal Case No.:  
  } 3:10 CR 170  
JACK ROSGA, ET AL.                       }

October 28, 2010

**COMPLETE TRANSCRIPT OF FINAL CHARGE TO THE JURY  
BEFORE THE HONORABLE HENRY E. HUDSON  
UNITED STATES DISTRICT COURT JUDGE**

APPEARANCES:

Peter Duffey, Esquire  
Stephen Miller, Esquire  
Sam Kaplan, Esquire  
Theryn Gibbons, Esquire  
OFFICE OF THE UNITED STATES ATTORNEY  
600 East Main Street  
Suite 1800  
Richmond, Virginia 23219  
Counsel on behalf of the United States

Claire Cardwell, Esquire  
Craig Mastantuono, Esquire  
Counsel on behalf of Jack Rosga

Horace Hunter, Esquire  
Counsel on behalf of William Davey

Reginald Barley, Esquire  
Counsel on behalf of Mark Spradling

Thomas Collins, Esquire  
Counsel on behalf of Leslie Werth

KRISTA M. LISCIO, RMR  
OFFICIAL COURT REPORTER  
UNITED STATES DISTRICT COURT

(The jury is present in the courtroom.)

THE COURT: Ladies and gentlemen, I have one final instruction to give you.

Ladies and gentlemen, in order for you to return a verdict, your verdict must be unanimous as to each count and as to each defendant. Now, you will note on the verdict form it's a bit different from perhaps verdict forms you've seen in the past, because as to Count Number 1 there are specific instructions. Should you find any of the defendants guilty of Count Number 1, you need to also indicate specifically what acts of racketeering you found that were committed, and the number of racketeering acts. Look carefully at the specific instructions on that particular form with respect to Count Number 1.

Now, in pursuing your deliberations, they should go forward in an orderly and business-like fashion. When you get back to the jury room, your first order of business should be to select one of your members to preside over the deliberations. And that individual, in addition to the normal fact-finding functions that each of you have, will have the obligation of being sure that the deliberations go forward in an orderly and businesslike fashion, and that no verdict is returned until each of you have had a thorough

1 opportunity to discuss the issues in the case.

2 I strongly recommend to you that you not begin  
3 your deliberations by taking a straw vote or anyone  
4 making an emphatic expression of his or her position in  
5 the case. Why? Because experience has taught us that  
6 sometimes when the jury begins their deliberations by  
7 committing themselves to a certain position, it is very  
8 difficult to retreat from it, even after a thorough  
9 discussion with your fellow jurors reveals to you that  
10 perhaps your initial impressions were incorrect. So  
11 keep an open mind until you have a chance to discuss  
12 the case thoroughly among yourselves before you take a  
13 vote.

14 I mentioned to you earlier that it's sometimes  
15 very, very helpful to go over the instructions before  
16 you begin your deliberation. That way you will know  
17 what your goals are and how you will attain them in the  
18 case. You will learn what must be proven for each  
19 offense, and what type of evidence is appropriate to  
20 prove or disprove the various allegations in the  
21 indictment.

22 Now, you have a duty to consult with one another  
23 with the objective of reaching a verdict if it can be  
24 done without offending your personal and individual  
25 judgment. In the course of your deliberations, you

1 shouldn't hesitate to reevaluate your position with  
2 respect to the weight and the value of the evidence, or  
3 with respect to the guilt or innocence of the accused  
4 if you feel that perhaps your initial impressions were  
5 in error. None of you should ever surrender your  
6 honest conviction as to the weight and value of the  
7 evidence, or the guilt or innocence of any of these  
8 gentlemen solely for the purpose of appeasing your  
9 fellow jurors, or for simply completing your jury  
10 service. And I'm sure you realize that. This is an  
11 important case to everybody - the government - as well  
12 as each of these defendants.

13 Now, in a moment I'm going to excuse you until  
14 tomorrow morning, and I'm going to give you-all the  
15 option of you can begin at 9:00, or you can begin at  
16 8:30. We begin here at 8:00, so if you want to come in  
17 at 8:30 in the morning, you may certainly do that.  
18 Discuss that among yourselves and make a decision  
19 before you leave, and let the Marshal know, and we'll  
20 be ready for you when you arrive in the morning.

21 Now, tomorrow morning you will receive a verdict  
22 form. You will receive copies of the instructions I  
23 gave you. And you will have access to the exhibits.  
24 All the documents, and the other items, will be  
25 available to you in the jury room. The firearms and

1 the drugs, our court security officer will have in his  
2 possession, and if you wish to see the drugs or the  
3 firearms they will be brought to you for your  
4 examination.

5 When you reach a verdict, please indicate on the  
6 verdict form. And again, pay careful attention to the  
7 instructions with respect to Count 1. That verdict  
8 should be signed by the presiding juror. Remember, it  
9 must be unanimous as to each count as to each  
10 defendant.

11 Now, during the course of your deliberations, you  
12 may very well have questions that you wish to address  
13 to the Court. If you do, put them in writing signed by  
14 the presiding juror. I'll review them, and I'll  
15 respond if I can. However, I tell you in advance,  
16 please do not be frustrated if you find that there are  
17 questions that you ask that I cannot answer because the  
18 law gives very, very little latitude to the presiding  
19 judge in providing responses to questions and advising  
20 you on the law and the facts once you begin your  
21 deliberations; but to the extent that I'm allowed to do  
22 so, I will respond.

23 Now, you may notice that there are 14 jurors in  
24 the jury box. Two of you have been selected as  
25 alternate jurors. In a moment, I'm going to excuse

1 those two alternate jurors. I have to as a matter of  
2 law. But I want the two alternate jurors to remain on  
3 call until the verdict is returned, because if for some  
4 reason a juror cannot serve for some reason during the  
5 course of deliberations, we may very well call you in  
6 and ask the jury to go back and resume deliberations  
7 with all 12 members present. So I want you to remain  
8 on call until the verdict is returned.

9 I also want to tell you that there may very well  
10 be an additional stage of these proceedings. And that  
11 is that in the event that you return a verdict of  
12 guilty as to any of these defendants on Count 1, the  
13 government may ask for a hearing with respect to asset  
14 forfeiture. It shouldn't take anymore than an hour or  
15 so. But I just want to alert you that there is that  
16 possibility, and it could extend the time of your jury  
17 service by an hour or two.

18 Ladies and gentlemen, at this time I'm going to  
19 excuse Juror Number 4 and Juror Number 7. You are the  
20 alternate jurors. I thank you so much for your jury  
21 service. Remain on call until a verdict is returned in  
22 the case.

23 (The alternate jurors are no longer present in the  
24 courtroom.)

25 THE COURT: Ladies and gentlemen, at this time all

1 of you are excused until tomorrow morning. Now, it's  
2 very, very important because you're in such a delicate  
3 stage of the proceedings that you carefully follow my  
4 instructions. Do not discuss the case with anyone -  
5 anyone whatsoever. Don't discuss the case among  
6 yourselves until all of you are present. Avoid any  
7 media coverage of this case, or any case of this type.  
8 Keep an open mind. Get a good night's rest. We'll see  
9 you back here tomorrow morning. You're now excused.

10 (The jury is no longer present in the courtroom.)

11 Several things before the attorneys leave this  
12 evening. First of all, I want you to review the  
13 verdict form we have put together. Ms. Shultz has it.  
14 If you have comments, let me know.

15 And secondly, Ms. Pizzini is going to go through  
16 all the evidence and make sure she has it. Make sure  
17 that it is in evidence, et cetera. So I don't want any  
18 of the attorneys to leave until these processes are  
19 done.

20 Tomorrow remain on call. Make sure that Marshal  
21 Wray has your phone number so you can be contacted. I  
22 want you to return within 10 minutes notice tomorrow,  
23 so be available.

24 MR. BARLEY: So you're saying we can remain in our  
25 offices so long as we're within 10 minutes from here?

1 THE COURT: Yes, sir. That's right. Sure. Just  
2 make sure that you stay by a phone, Mr. Barely, so that  
3 the Marshal Service or Marshal Wray can give you a  
4 call. Be here within 10 minutes.

5 So I'm going to stand in recess. Look over the  
6 verdict form with Ms. Shultz. If you have questions,  
7 need my intervention, I'm here. And then Ms. Pizzini  
8 will go over the evidence, make sure we have everything  
9 and properly marked, et cetera, and ready for the jury  
10 tomorrow morning.

11 Anything further?

12 MR. DUFFEY: No, Your Honor.

13 MR. HUNTER: No, Your Honor.

14 MS. CARDWELL: No, sir.

15 THE COURT: Okay. Thank you very much. I'll be  
16 available if you need me.

17 Stand in recess.

(The proceeding concluded at 4:44 p.m.)

18 REPORTER'S CERTIFICATE

19 I, Krista M. Liscio, OCR, RMR, Notary  
Public in and for the Commonwealth of Virginia at  
large, and whose commission expires March 31, 2012,  
20 Notary Registration Number 149462, do hereby certify  
that the pages contained herein accurately reflect  
21 the notes taken by me, to the best of my ability, in  
the above-styled action.

22 Given under my hand this 29th day of October,  
2010.

23  
24 \_\_\_\_\_  
Krista M. Liscio, RMR  
25 Official Court Reporter